

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Gabriella Carpenter	Team: Squad #13	CCRB Case #: 201704486	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 01/18/2017 3:20 PM	Location of Incident: Inside of § 87(2)(b)	Precinct: 42	18 Mo. SOL 7/18/2018	EO SOL 7/18/2018	
Date/Time CV Reported Wed, 05/31/2017 8:22 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 06/06/2017 11:16 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			NARCB BX
2. DT3 Jose Cintron	4861	946638	NARCB BX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Ray Sanchez	04625	942504	NARCB BX
2. POM Nelson Nin	15130	950955	NARCB BX
3. DT3 Petar Simonovic	4299	946257	NARCB BX
4. POM Fred Dorch	11694	938388	NARCB BX
5. DT3 Richard Lennox	2289	944734	NARCB BX

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jose Cintron	Abuse: Det. Jose Cintron threatened to damage § 87(2)(b)'s property.	
B. An officer	Abuse: An officer drew his gun.	
C.DT3 Jose Cintron	Abuse: Det. Jose Cintron entered and searched § 87(2)(b) in the Bronx.	
D.DT3 Jose Cintron	Abuse: Det. Jose Cintron threatened to arrest § 87(2)(b).	
E.DT3 Jose Cintron	Abuse: Det. Jose Cintron threatened to notify Administration for Children's Services.	
F.DT3 Jose Cintron	Abuse: Det. Jose Cintron threatened to damage § 87(2)(b)'s property.	
G.DT3 Jose Cintron	Abuse: Det. Jose Cintron failed to show the search warrant to § 87(2)(b).	
H.DT3 Jose Cintron	Abuse: Det. Jose Cintron threatened to arrest § 87(2)(b).	
I.DT3 Jose Cintron	Abuse: Det. Jose Cintron interfered with § 87(2)(b)'s use of a recording device.	

Officer(s)	Allegation	Investigator Recommendation
J.DT3 Jose Cintron	Discourtesy: Det. Jose Cintron acted discourteously toward § 87(2)(b)	

Case Summary

§ 87(2)(b) filed a complaint with the Internal Affairs Bureau on May 31, 2017, generating log number 17-20547. The complaint was received by the CCRB on June 6, 2017.

On January 18, 2017, at approximately 3:20 p.m., Detective Jose Cintron, Detective Petar Simonovic, Police Officer Fred Dorch, and Sergeant Ray Sanchez of Bronx Narcotics went to § 87(2)(b) in the Bronx. Det. Cintron knocked on the door and § 87(2)(b)'s son, § 87(2)(b) answered. Det. Cintron told him that there was a gas leak in the house and that the officers needed to evacuate everyone. § 87(2)(b) said that there was a dog in the house that he needed to put away and Det. Cintron said, "Put the dog away or otherwise there'll be casualties inside the house" (**Allegation A**). § 87(2)(b) yelled for § 87(2)(b) to come to the door. By the time § 87(2)(b) got to the door, an unidentified officer had drawn his gun (**Allegation B**) and Det. Cintron and the other officers were already entering the house (**Allegation C**). Det. Cintron told § 87(2)(b) that there was a gas leak, and then grabbed § 87(2)(b)'s wrist and tried to walk farther into the house. Det. Cintron said that it smelled like marijuana and that if § 87(2)(b) did not show them the marijuana in the house then they would arrest § 87(2)(b) (**Allegation D**), call ACS (**Allegation E**), and "really tear up the house" (**Allegation F**). § 87(2)(b) took the officers to the basement and showed them his marijuana plants. Det. Lennox arrived at the house and all of the officers except Det. Lennox and PO Dorch left; Det. Lennox and PO Dorch stayed in the basement with § 87(2)(b) while Det. Cintron went to get an emergency search warrant. Before Det. Cintron left, he told § 87(2)(b) that they could take his niece away (also **Allegation E**). § 87(2)(b)'s sister, § 87(2)(b) and her boyfriend, § 87(2)(b) arrived at the house while Det. Cintron was getting the search warrant and § 87(2)(b) left. When Det. Cintron returned, § 87(2)(b) asked him to see the search warrant and Det. Cintron threatened to arrest him in response (**Allegations G and H**); Det. Cintron also threatened to arrest § 87(2)(b) for refusing to go into the house to find a piece of mail with § 87(2)(b)'s name on it and for recording the incident on his cell phone (**Allegation I**). Det. Cintron brought a Polaroid camera into the house and left a photo of the marijuana plants in the basement by where they had been (**Allegation J**).

Mediation, Civil and Criminal Histories

- Mediation was not offered in this case due to § 87(2)(b)'s arrest.
- No notice of claim was filed in regard to this incident.
- § 87(2)(b) and § 87(2)(b) have not been convicted of any crimes in the past ten years.
- § 87(2)(b) pled guilty to one count of possession of marijuana in the fifth degree as a result of this incident. In the past ten years, he has not been convicted of any other crimes.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint involving § 87(2)(b) and § 87(2)(b).
- § 87(2)(b) filed one CCRB complaint previously that was conciliated.

- Det. Cintron has been a member of the service for nine years and has had nine other CCRB allegation pled against him in five cases. The following allegations reflect a pattern applicable in this case:
 - One allegation of threat to notify ACS was pled against him in CCRB 201606441 that was closed as complainant uncooperative.
 - One discourtesy (action) allegation was pled against him in CCRB 201606441 that was closed as complainant uncooperative.
 - One allegation of premises entered and/or searched was pled against him in CCRB 201610339 that was exonerated.
- Sgt. Sanchez has been a member of the service for eleven years and has had nineteen other CCRB allegations pled against him in twelve cases.
- Det. Simonovic has been a member of the service for nine years and has had three other CCRB allegations pled against him in two cases.
- PO Dorch has been a member of the service for twelve years and has had three other CCRB allegations pled against him in three cases.

Potential Issues

- § 87(2)(b) and § 87(2)(b) provided phone statements but declined to schedule interviews.

Findings and Recommendations

Allegations not pleaded

- **Abuse of Authority:** Allegations of failing to show the search warrant were not pled against Det. Cintron, PO Dorch, or Det. Lennox as it is undisputed that the officers did not have a search warrant until Det. Cintron returned later; the officers therefore were not obligated to show civilians the search warrant.

Allegation A: Abuse of Authority: Det. Jose Cintron threatened to damage § 87(2)(b)

§ 87(2)(b)'s property.

Allegation B: Abuse of Authority: An officer drew his gun.

Allegation C: Abuse of Authority: Det. Jose Cintron entered and searched § 87(2)(b)

§ 87(2)(b) in the Bronx.

Allegation D: Abuse of Authority: Det. Jose Cintron threatened to arrest § 87(2)(b)

Allegation E: Abuse of Authority: Det. Jose Cintron threatened to notify Administration for Children's Services.

Allegation F: Abuse of Authority: Det. Jose Cintron threatened to damage § 87(2)(b)

§ 87(2)(b)'s property.

§ 87(2)(b) testified that five or six officers knocked on the door and he opened it after hearing Det. Cintron mention something about a gas leak (BR 03 and BR 04). After opening the door slightly, he asked Det. Cintron what he had said. Det. Cintron said that there was a gas leak and that they were evacuating everyone from the houses. As he was speaking, Det. Cintron pulled open the storm door that § 87(2)(b) was holding mostly closed, and then opened the gate that can only be opened once the storm door is open. Det. Cintron began to walk into the house without asking § 87(2)(b) if he could come in. § 87(2)(b) told him not to come any farther because there was a loose dog in the house. Det. Cintron stopped just inside the

front door of the house and said, “Put the dog away or otherwise there’ll be casualties inside the house,” which § 87(2)(b) thought meant that he would shoot the dog. The officers’ guns were all holstered when they were outside the house and when they entered. § 87(2)(b) yelled for § 87(2)(b) to come upstairs, and then went to put the dog in another room. By the time § 87(2)(b) got back to the front door, § 87(2)(b) was there speaking with the officers and all but one of the officers were inside the house. Det. Cintron said that they were there for a gas leak and § 87(2)(b) asked the officers to go provide assistance to his elderly neighbor. The officers were trying to walk farther in but § 87(2)(b) stood in front of them so that they could not walk any farther. Det. Cintron said that he smelled marijuana and asked where it was in the house, and then grabbed both of § 87(2)(b)’s wrists and held them in front of him. § 87(2)(b) and § 87(2)(b) told the officers that there was no marijuana in the house, but Det. Cintron said that there was a strong smell of marijuana and they knew there was marijuana in the basement. § 87(2)(b) denied that there was marijuana in the house again. Det. Cintron said, “We know there’s weed in the basement. So either take us to the weed or we’re going to take your granddaughter and we’re going to take your son.” Det. Cintron also said that he and more officers would come back and “really tear up the house.” § 87(2)(b) asked Det. Cintron once and § 87(2)(b) asked Det. Cintron multiple times to show them the warrant but Det. Cintron told them not to worry about it. § 87(2)(b) took all of the officers downstairs and § 87(2)(b) stayed upstairs. § 87(2)(b) could not hear anything that was happening downstairs. The officers never addressed the gas leak again. After going to the basement, Det. Cintron went back upstairs and approached § 87(2)(b) who was seated on the stairs, and said, “You know we can take your niece away for this. This is child endangerment.” § 87(2)(b) asked why they had not taken his niece away and Det. Cintron did not respond.

§ 87(2)(b) testified that he was downstairs in the basement when six officers knocked on his door (BR 01 and BR 02). His son, § 87(2)(b) opened the door then yelled for § 87(2)(b) to go upstairs. When he got upstairs, Det. Cintron and another officer were already inside and the other officer had his gun drawn. Det. Cintron told him that there was a gas leak and § 87(2)(b) asked that the officers go help his elderly neighbor. Det. Cintron pushed § 87(2)(b)’s chest with one hand, grabbed his right wrist with one hand, and tried to walk farther into the house. § 87(2)(b) asked what was going on and Det. Cintron said that it smelled like marijuana, that they knew that he had marijuana in the house, and that § 87(2)(b) needed to take them to the basement. § 87(2)(b) asked Det. Cintron if they had a warrant and Det. Cintron told him not to worry about a warrant and that if he did not let him search the house then he would “lock up” § 87(2)(b) take away § 87(2)(b)’s granddaughter, and “tear up” his whole house. § 87(2)(b) took the six officers downstairs to the basement and showed them the eight small marijuana plants he was growing. While in the 42nd Precinct stationhouse later, Det. Cintron brought § 87(2)(b) a form and told him that he needed to sign it. § 87(2)(b) asked what it was because he could not read it. Det. Cintron said that it was a record of everything that he had taken from § 87(2)(b)’s house and that § 87(2)(b) could choose whether or not to sign it. § 87(2)(b) signed the form but did not know exactly what it was. § 87(2)(b) told § 87(2)(b) after he was released that Det. Cintron told him that if he did not put the dog away then “there would be fatalities in this house” before the officers came inside.

§ 87(2)(b) testified that when she arrived at the house, § 87(2)(b) told her that officers were downstairs with § 87(2)(b) and had said that there was a gas leak then come into the house and searched (BR 05).

§ 87(2)(b) who lives one house over from § 87(2)(b) was at home when she saw four male officers in plainclothes approach § 87(2)(b)'s house (BR 06). The officers did not have their guns drawn when they approached the house. The officers knocked on the door and § 87(2)(b) opened it. § 87(2)(b) asked the officers to hold on so that he could get his father. Det. Cintron (identified by her description of him as one of two Hispanic males and by his actions) put his foot in the door and said that § 87(2)(b) could get his father but he could not close the door. § 87(2)(b) told him that he needed to close the door because a baby and a dog were in the house. Det. Cintron said, "Either you put away the dog or I'm going to have to shoot him." § 87(2)(b) then came to the door. Det. Simonovic (identified as the only white officer present) told § 87(2)(b) that there was a gas leak and that they needed to come in. § 87(2)(b) told the officers that if there was a gas leak then they should check on his elderly neighbor's house. Det. Simonovic insisted that the leak was in his house and they needed to go inside to check it. § 87(2)(b) told the officers not to come in but they pushed their way inside. § 87(2)(b) could not hear anything that happened after the officers went inside.

§ 87(2)(b) was not present for the allegations (BR 07).

Det. Cintron testified that he and the Bronx Narcotics field team went to § 87(2)(b)'s house so that Det. Cintron could do an investigation because he had received a complaint from § 87(2)(b)'s daughter a month and a half or two months earlier that § 87(2)(b) was growing marijuana plants in his house (BR 08). After doing observation at the house twice and not seeing anything suspicious, Det. Cintron decided that he needed to go to the location to see who was there and speak to someone to see if he could find anything else out; he did not plan to enter the house on the date of incident and did not have a warrant. After they arrived at § 87(2)(b)'s house, Det. Cintron and Det. Simonovic approached the house without drawing their guns. Det. Cintron knocked on the door and § 87(2)(b) opened it. As soon as the door opened, Det. Cintron smelled a strong odor of marijuana but he could not specify whether it was the smell of burning or unburned marijuana. Det. Cintron identified himself and asked whether anyone had called for a gas leak; Det. Cintron decided to ask about a gas leak as a ruse because he did not want to tip off the occupants of the house that they were investigating whether § 87(2)(b) was growing marijuana. Det. Cintron asked if § 87(2)(b) was home and § 87(2)(b) said that he was downstairs sleeping and then left to get him. Det. Cintron did not try to pull the door farther open at any point while speaking to him. Det. Cintron did not recall having any conversation about there being a dog in the house, nor did he or another officer threaten to hurt the dog. § 87(2)(b) came to the door about thirty seconds later and Det. Cintron told him that he smelled a strong odor of marijuana. § 87(2)(b) told Det. Cintron that he grows marijuana for personal use. Det. Cintron asked where he grew the marijuana and § 87(2)(b) told him that it was in the basement. Det. Cintron asked if he could see the marijuana plants and § 87(2)(b) agreed. Det. Cintron did not make any threats about what he would do if he was not allowed to see the marijuana plants, including threatening to call ACS, to arrest § 87(2)(b) or to "really tear up the house." No civilians asked to see a search warrant before or after Det. Cintron saw the marijuana plants and no officers touched § 87(2)(b) before they went downstairs. § 87(2)(b) took Det. Cintron downstairs into the basement and showed him the marijuana plants in the boiler room. There were

a lot of plants that were about four feet tall. Det. Cintron did not look anywhere else in the house because he had found what he was looking for. Det. Cintron told § 87(2)(b) to have a seat and that he had to do some investigation and would come back. Det. Cintron left to obtain an emergency search warrant. He did not speak to § 87(2)(b) again after their conversation at the door, and he did not tell § 87(2)(b) that he could call ACS, even though he could have because of the drugs in the house.

Det. Simonovic corroborated Det. Cintron's testimony (BR 09).

PO Dorch corroborated Det. Cintron's testimony with the following distinctions: He testified that he approached the house with Det. Cintron but could not hear Det. Cintron's conversation with § 87(2)(b) or § 87(2)(b) (BR 10). After speaking to § 87(2)(b) Det. Cintron turned to PO Dorch and said that § 87(2)(b) was letting them go inside. § 87(2)(b) said that his marijuana plants were in the basement once the officers were inside but PO Dorch had not heard Det. Cintron and § 87(2)(b) talk about marijuana previously. After the officers saw the marijuana plants, Det. Cintron left PO Dorch in the basement with § 87(2)(b) while he went to get a search warrant.

Sgt. Sanchez testified that Det. Cintron called him and told him that he was at § 87(2)(b)'s house and § 87(2)(b) told him that he grew marijuana plants (BR 11). Sgt. Sanchez did not see when Det. Cintron and PO Dorch initially approached the house. Sgt. Sanchez arrived at the location a few minutes later and saw Det. Cintron and PO Dorch waiting outside. After Sgt. Sanchez arrived, § 87(2)(b) told the officers that the marijuana plants were for personal use and that the officers could come inside to see that there was nothing unsafe about his setup for growing marijuana. None of the civilians or officers mentioned there being a dog in the house while Sgt. Sanchez was present, and he did not hear an officer threaten to hurt the dog. Sgt. Sanchez could not recall whether he could smell marijuana in the house before going downstairs or whether any officers commented about smelling marijuana. § 87(2)(b) took Sgt. Sanchez, Det. Cintron, and PO Dorch down the stairs to the basement. No officers made any threats about what would happen if § 87(2)(b) did not let them search, including threatening to call ACS, to arrest § 87(2)(b) or to "tear up" the house. The officers did not touch or use force against § 87(2)(b) before he took them to the basement. After seeing the marijuana plants, Sgt. Sanchez left the house and returned to his command while Det. Cintron applied for an emergency search warrant.

Det. Lennox testified that the officers were already in the basement with § 87(2)(b) when he arrived at the house (BR 12).

The entry has been pled only against Det. Cintron as he made the decision to go to § 87(2)(b)'s house, spoke at the door, and entered first with his fellow officers following his lead.

The use of physical force against any animal will be used only to the extent that such force is necessary to prevent harm or injury to such animal, other animals, or persons. Patrol Guide Procedure 214-33 (BR 13).

Officers may not enter a home without a valid search warrant or voluntary consent. *People v. § 87(2)(b)* 39 N.Y.2d 122, 127 (1976) (BR 14).

Det. Cintron admitted that the gas leak was a ruse, § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation G: Abuse of Authority: Det. Jose Cintron failed to show the search warrant to

§ 87(2)(b)

Allegation H: Abuse of Authority: Det. Jose Cintron threatened to arrest

§ 87(2)(b)

Allegation I: Abuse of Authority: Det. Jose Cintron interfered with

§ 87(2)(b)

s use of a recording device.

§ 87(2)(b) testified that after she went back upstairs after seeing § 87(2)(b) Det. Cintron had returned with a piece of paper that appeared to be blank and was not a search warrant. Det. Cintron asked § 87(2)(b) to show his ID to prove that he lived there. § 87(2)(b) told Det. Cintron that he did not live there. Det. Cintron asked § 87(2)(b) to find a piece of mail with § 87(2)(b)'s name and address on it but § 87(2)(b) refused to go through anything in the house. § 87(2)(b) asked Det. Cintron to show him the search warrant and Det. Cintron said that he did not have to. § 87(2)(b) did not say whether Det. Cintron threatened to arrest § 87(2)(b) if he did not get a piece of mail.

§ 87(2)(b) testified that he and Det. Cintron went upstairs while the other officers took § 87(2)(b) and some marijuana plants out to the police van. § 87(2)(b) saw Det. Cintron looking at the kitchen table and around the living room on the first floor. § 87(2)(b) asked him for the search warrant and said that if they did not have a search warrant then they needed to stop searching. Det. Cintron told § 87(2)(b) "Mind your own business if you don't want to get locked up," then told § 87(2)(b) to wait outside. While outside, Det. Cintron told § 87(2)(b) to go in the house and get mail with § 87(2)(b)'s name on it. § 87(2)(b) refused so Det. Cintron asked for his ID then said, "Go get me something with his name on it or you'll be arrested too." § 87(2)(b) went inside and got some mail, gave it to Det. Cintron, and then took his cell phone out to record the officers. Det. Cintron told him to turn his cell phone off before they arrested him. § 87(2)(b) put his cell phone away and Det. Cintron gave him back his ID, then the officers left within five minutes.

None of the other civilians were present for the allegations.

Det. Cintron testified that when he and Det. Simonovic returned to the house with the search warrant, § 87(2)(b) and § 87(2)(b) were outside of the house and asked what was happening. Det. Cintron told them that § 87(2)(b) was being arrested. They did not ask to see a search warrant, and Det. Cintron did not threaten to arrest them for any reason. The officers usually get a piece of mail from the location when they execute search warrants but Det. Cintron could not recall asking a civilian to get a piece of mail for him. Det. Cintron thought that he asked for ID from § 87(2)(b) because he was going to stay at the house and Det. Cintron wanted to verify his identity. He thought that § 87(2)(b) might have tried to record the incident on her cell phone but none of the officers tried to stop her.

PO Dorch corroborated Det. Cintron's testimony.

Sgt. Sanchez testified that he remembered people outside the house stopping to see what was going on but he did not know whether there were civilians who tried to go into the house. No officer threatened to arrest a civilian. Sgt. Sanchez did not know whether an officer asked a civilian to go get a piece of mail with § 87(2)(b)'s name on it but he did not. No civilian tried to record the incident on a cell phone.

Det. Lennox corroborated Sgt. Sanchez's testimony.

Det. Simonovic testified that when he was in the van after § 87(2)(b) was placed under arrest, he saw § 87(2)(b) in front of the house asking what was going on but he did not speak to her and did not know if another officer did; he did not see any other civilians in or around the house. None of the officers threatened to arrest a civilian and he could not recall a civilian trying to record the incident.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation J: Discourtesy: Det. Jose Cintron acted discourteously toward § 87(2)(b)

§ 87(2)(b) testified that Det. Cintron went down to the basement with two other officers, possibly Sgt. Sanchez and Det. Simonovic; Det. Cintron was carrying a camera. § 87(2)(b) did not see him take photos but when he got home he found a photo of his marijuana

plants pinned to the wall. § 87(2)(b) gave the photo to his lawyer, but his lawyer misplaced it (BR 15).

§ 87(2)(b) testified that when he returned to the house, a photo of the marijuana plants was in the basement with a container of cement holding it down, but he did not know who put the photo there.

§ 87(2)(b) testified that she saw an officer she could not recall specifically carrying a camera and after the incident there was a photo of the marijuana plants left in the basement.

§ 87(2)(b) testified that he saw Det. Cintron take photos of the boiler room where the marijuana plants were with a Polaroid camera but he did not see what he did with the photos. After the officers left, § 87(2)(b) found one of the photos in the basement.

Det. Cintron testified that the officers had a Polaroid camera in the van but he did not take any photos with it during the incident and he could not recall any other officers using it. The officers did not leave any photos at the house.

Sgt. Sanchez, Det. Lennox, PO Dorch, and Det. Simonovic corroborated Det. Cintron's testimony.

As none of the officers testified to carrying a camera, the investigation has credited § 87(2)(b) and § 87(2)(b) that Det. Cintron was the officer carrying the camera and taking photos.

§ 87(2)(b), § 87(2)(g)

Squad:

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date